

**COMMONWEALTH OF VIRGINIA
WASTE MANAGEMENT BOARD
CONSENT ORDER
ISSUED TO
INTERMET CORPORATION
FOR
The Radford Foundry Industrial Landfill
SWMF Permit No. 355**

Section A: Purpose

This is a consent order issued under the authority of §§ 10.1-1182 *et seq.* and §§ 10.1-1402, 10.1-1405, and 10.1-1455 of the Code of Virginia (1950), as amended, by the Virginia Waste Management Board to Internet Corporation to resolve certain alleged violations of environmental laws and/or regulations at the Internet Radford Foundry industrial landfill operating pursuant to Solid Waste Facility Permit Number 355.

Section B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. “Code” means the Code of Virginia (1950), as amended.
2. “Board” means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Internet” means Lynchburg Foundry Company, d.b.a. INTERMET Corporation, a Georgia corporation.

6. “Order” means this document, also known as a consent order.
7. “The landfill” means the Internet Corporation Radford Foundry industrial landfill, which operates under Solid Waste Facility Permit Number 355.
8. “EPA” means the United States Environmental Protection Agency.
9. “RCRA” means the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, *et seq.*

Section C: Findings of Fact and Conclusions of Law

1. On March 26, 2002, DEQ staff inspected the landfill. As a result of the inspection, the Department sent Internet a Notice of Violation dated April 23, 2002 which alleged that: 1) in violation of 9 VAC 20-80-270.B and 9 VAC 20-80-270.C.12, industrial solid waste had been exposed on the landfill face because of Internet’s failure to adequately control runoff and failure to repair erosion channels; 2) in violation of the requirements of the Financial Assurance Regulations for Solid Waste Facilities, 9 VAC 20-70-10 *et seq.*, Internet had failed to provide adequate documentation of a valid financial responsibility mechanism for the landfill; 3) in violation of 9 VAC 20-80-270.D.3, Internet had failed to repair a cracked groundwater monitoring well apron.
2. Erosion problems at the landfill were listed as an area of concern in letters to Internet from the Department dated September 4, 2001 and February 28, 2002.
3. On March 27, 2002, EPA issued an Administrative Order on Consent (“EPA Corrective Action Order”) to Internet under RCRA Section 3013 for corrective action assessment at the Radford Foundry.
4. In an e-mail dated May 22, 2002, Internet provided documentation of repairs of the erosion channels, intermediate cover, and groundwater monitoring well apron.
5. On May 23, 2002, Internet submitted an updated letter of credit to the Department as a financial assurance mechanism for the landfill.

Section D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it pursuant to Code § 10.1-1455, orders Internet and Internet voluntarily agrees to pay a civil charge of Six Thousand Eight Hundred Eighty Five Dollars (\$6,885.00) within thirty (30) days of the effective date of this Order in settlement of the violations cited in this Order. Payment shall be by check, certified check, money order, or cashier's check payable to “Treasurer of Virginia” and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, VA 23240

The payment shall include Internet's Federal Identification Number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

Section E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Internet, for good cause shown by Internet, or on its own motion after notice and opportunity to be heard.
2. This Order addresses only those violations pertaining to the facility specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For purposes of this Order and subsequent actions with respect to this Order, Internet admits the jurisdictional allegations in this Order, but does not admit the factual allegations or legal conclusions contained herein. The Department and Internet agree that the actions undertaken by Internet in accordance with this consent order do not constitute an admission of any liability by Internet. Internet does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Order, the validity of the Findings of Fact and Conclusions of Law contained in Section C, of this Order.
4. Internet declares that it has received fair and due process under the Administrative Process Act, Code §§ 2.2-4000 *et seq.*, and the Virginia Waste Management Act, Code § 10.1-1400 *et seq.*, and waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding, or to judicial review of, any action taken by the Board or the Director to enforce this Order.
5. Failure by Internet to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

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6. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
7. Internet shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, or other act of God, war, strike, or other such occurrences. Internet must show that the circumstances resulting in the noncompliance were beyond its control and were not due to a lack of good faith or diligence on its part. Internet shall notify the Director and the Director of the Department's West Central Regional Office in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Director and the Director of the Department's West Central Regional Office within 24 hours of the commencement of the condition causing or anticipated to cause the delay or noncompliance shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

8. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
9. This Order shall become effective upon execution by both the Director or his designee and Internet. Notwithstanding the foregoing, Internet agrees to be bound by any compliance date that precedes the effective date of this Order.
10. This Order shall terminate upon receipt of the funds specified in Section D herein. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Internet from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
11. By the signature of an authorized official below, Internet voluntarily agrees to the issuance of this Order.

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Robert G. Burnley, Director
Department of Environmental Quality

Date

Seen and Agreed to: _____
INTERMET Corporation

The foregoing instrument was acknowledged before me on _____

by _____, _____, on behalf of INTERMET Corporation
(name) (title)

in the County/City of _____, Commonwealth of Virginia.

Notary Public

My Commission expires: _____